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FM SECSTATE WASHDC

TO AMEMBASSY BERN IMMEDIATE

USMISSION EC BRUSSELS IMMEDIATE

AMEMBASSY OTTAWA IMMEDIATE

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FOL RPT BRASIL 9814 SENT ACTION SECSTATE WASHDC INFO GENEVA
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E.O.11652: N/A

TAGS: GATT, ETRD, BR

SUBJECT: DEMARCHE ON BRAZILIAN APPLICATION FOR GATT WAIVER

REF: A. STATE 266158 B. STATE 265029 C. STATE 265951

D. SHUGART/WHITNEY TELCON, NOV 7 E. ZIMMERMAN/ JOHNSON
TELCON NOV. 11

1. SUMMARY: PER TELCONS AND REFTEL (A) REQUESTS, ON
NOVEMBER 11, EMBOFFS DELIVERED US AIDE- MEMOIRE TO CHIEF
COMMERCIAL POLICY DIVISION, FONOFF, AND CONVEYED US POPNT
OF VIEW ON BRASILIA APPLICATION FOR GATT WAIVER. BRAZILIAN
REACTION WAS INTRANKIGENT STATEMENT OF THEIR INTENTION
TO MAINTAIN REFERENCE TO ARTICLE XXXVI4 IN THEIR WAIVER
APPLICATION. DURING DISCUSSIONS, EMBOFFS OBTAINED AN EXPLANATION
OF BRAZILIAN POSITION AND MOTIVATIONS BEHIND IT.

ON NOVEMBER 12, DCM HAS APPOINTMENT WITH CHIEF ECONOMIC

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DEPARTMENT, FONOFF, AND WILL PURSUE MATTER FURTHER. END

SUMMARY.

2. PER TEOCONS AND REFTEL (A) REQUEST, EMBASSY MADE APPOINTMENT NOVEMBER 11 WITH MINISTER SERGIO PAULO ROUANET, CHIEF OF DIVISION OF COMMERCIAL POLICY, FONOFF, AND DELIVERED AIDE-MEMOIRE REFTEL (A) AND MADE POINTS PER REFTEL INSTRUCTIONS. DCM HAS NOVEMBER 12. APPOINTMENT WITH AMBASSADOR CABRAL DE MELLO, CHIEF OF ECONOMIC DEPARTMENT, FONOFF, TO PURSUE ISSUE FURTHER. (EMBASSY UNABLE TO ARRANGE EARLIER APPOINTMENT).

3. IMMEDIATELY AFTER READING US AIDE-MEMOIRE, ROUANET SAID "THAT'S THAT. WE TAKE NOE OF YOUR POSITION: BUT WE WILL CONTINUE TO INSIST ON INCLUSION OF REFERENCE TO ARTICLE XXXVI:8." ROUANET AND OTHERMEMBERS OF HIS STAFF WHO WERE PRESENT SAID THAT BRAZIL WAS ARGUING FOR BOTH THE PRINCIPLE INVOLVED AND FOR PRACTICAL CONSIDERATIONS. THEY STATED THAT THEIR BELIEF THAT BRAZIL DID NOT BENEFIT FROM PART IV PROVISIONS OF THE GATT DURING THE SEVEN YEARS OFNEGOTIATIONS FOLLOWING THE 1967 WAIVER BECAUSE, IN MOST CASES, DEVELOPED COUNTRIES ASKED FOR FULL COMPENSATION. COMMERCIAL POLICY DIVISION OFFICERS STATED THAT WHEN NEGOTIATIONS WERE FINALLY COMPLETED IN 1974, COMCESSIONS GRANTED BY BRAZIL IN EARLY YEARS OF THESE NEGOTIATIONS WERE CAUSING DIFFICULTIES FOR VARIOUS BRAZILIAN INDUSTRIES. IN VIEW OF BRAZIL'S PRESENT BALANCE-OF-PAYMENTS PROBLEMS,THEY EXPRESSED BELIEF THAT BRAZIL SHOULD BE GIVEN ARTICLE XVIII CONSIDERATION AND THATTHE PRESENT WAIVER REQUEST INCOUDES REFERENCE TO ARTICLE XXXVI:8 IN ORDER TOHGUARANTEE BRAZIL THE LEGAL BASIS TO INSURE LESS THAN FULL RECIPROCITY IN THE ENSUING NEGOTIATIONS. THEY REPEATED REQUEST IN THEIR AIDE-MEMOIRE (REFTEL C) THAT US ACCEPT BRAZILIAN PROPOSAL AND MAKE A STATEMENT THAT THISDECISION DOES NOT CONSTITUTE A PRECEDENT. THEY STATED THAT US WASONLY COUNTRY OPPOSING INCLUSION OF REFERENCE TO ARTICLE XXVI:8.

4. IN RESPONSE TO PRESENTATION OF US POINT OF VIEW BY EMBOFFS, COMMERICAL POLICY DIVISION OFFICERS STATED THEY UNDERSTOOD U S CONCERN ABOUT ESTABLISHMENT OF PRECEDENT,BUT STATED THA THEY THOUGHT THEY WERE DEFENDING A PRINCIPLE THAT WAS EQUALLY VALID. LIMITED OFFICIAL USE

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THEY ADDED THAT OQR CONFLICTING PRINCIPLES COULD NOT BE NEGOTIATED.

5. IN RESPONSE TO THE US PRESENTATION THAT CURRENT WITHDRAWALS FROM SCHEDULE III CANNOT BE CONSIDERED AN EXTENSION OF THE RENEGOTIATIONS CONDUCTED UNDER THE 1967 WAIVER, BRAZILIAN AIDE ADMITTED THAT IT WAS IMPOSSIBLE TO FORMALLY LINK OLD WAIVER TO NEW WAIVER. NEVERTHELESS, THEY THOUGHT BRAZIL WAS

JUSTIFIED IN MAKING THE INFORMAL LINK BECAUSE OF ITS DISATISFACTION AND REEVALUATION IN 1974, AND 1975, OF THE CONCESSIONS NEGOTIATED SINCE 1967.

6. FOLLOWING DISCUSSION OF PRACTICAL CONSIDERATIONS OF THE WAIVER REQUEST AND BRAZILIAN STATEMENT THAT WITHDRAWAL OF CONCESSIONS HAD GREAT IMPORTANCE FOR CERTAIN BRAZILIAN INDUSTRIES, EMBOFF POINTED OUT THAT US DID NOT OPPOSE THE WAIVER PER SE AND THAT US INTENDED TO BE FORTHCOMING IN ANY SUBSEQUENT NEGOTIATIONS. BRAZILIAN SIDE SAID IT EXPECTS THAT COUNTRIES OTHER THAN US, E.G., THE EC AND JAPAN, MIGHT BE LESS FORTHCOMING AND WOULD DEMAND A LARGE MEASURE OF RECIPROCITY AND, THEREFORE, BELIEVED IT IS IMPORTANT TO BE ABLE TO NEGOTIATE UNDER AUSPICES OF ARTICLE XXXVICIM

7. EXPLANATION OF BRAZILIAN POSITION AND THE MOTIVATIONS BEHIND IT: DURING DISCUSSIONS OF OVERALL WAIVER ISSUE, ROUANET AND OTHER MEMBERS OF HIS STAFF MADE FOLLOWING EXPLANATION OF EVOLUTION OF PRESENT BRAZILIAN POSITION. NOT UNTIL TOWARD THE END OF NEGOTIATIONS DID BRAZIL REALIZE IMPACT OF THE CONCESSIONS. AT THE CONCLUSION OF SEVEN YEARS OF NEGOTIATIONS (THEY CLAIMED THIS WAS LONGEST SET OF NEGOTIATIONS IN THE HISTORY OF GATT) IN EARLY 1974 BRAZIL STATED IN THE GATT COUNCIL THEIR DISAPPOINTMENT IN THE WHOLE PROCESS, ESPECIALLY IN HAVING BEEN FORCED TO GIVE FULL RECIPROCITY.

8. THEY STATED THAT AS BRAZIL STARTED TO GET SCHEDULE III LIST READY FOR PROMULGATION, GOB RECEIVED STRONG PROTESTS FROM BRAZILIAN INDUSTRIES REGARDING CONCESSIONS GRANTED ON APPROXIMATELY 60 ITEMS. THIS LIST OF 60 WAS EXAMINED BY INDIVIDUAL MINISTRIES AND CUSTOMS POLICY COUNCIL WHICH IS LIMITED OFFICIAL USE

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AN INTER-MINISTERIAL COMMITTEE. USING THREE CRITERIA, GOB WAS ABLE TO REDUCE LIST TO 25 PRODUCTS WHICH ARE ITEMS FOR WHICH BRAZIL WOULD LIKE TO WITHDRAW CONCESSIONS UNDER ITS PRESENT WAIVER APPLICATION. CRITERIA FOR INCLUSION OF AN ITEM IN THIS WITHDRAWAL LIST, THEY SAID, WERE: (1) PRODUCT IS PRODUCED BY AN INFANT INDUSTRY: (2) PRODUCT IS PRODUCED IN ONE OF PRIORITY SECTORS AS DESIGNATED BY NATIONAL DEVELOPMENT PLAN: (3) PRODUCT IS PRODUCED IN AN INDUSTRY IN WHICH IMPORTANT INVESTMENTS HAD BEEN MADE IN RECENT YEARS. COMMERCIAL POLICY DIVISION OFFICER ADDED THAT ALL THREE CRITERIA HAD TO APPLY FOR A PRODUCT TO BE INCLUDED IN WITHDRAWAL LIST. CRIMMINS UNQTE KISSINGER

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